

## SCHEDULES

### SCHEDULE 21

#### POISONS AND EXPLOSIVES PRECURSORS

##### *Establishment of common regulatory system*

10 For section 8 substitute—

##### **“8 Penalties**

- (1) A person guilty of an offence under section 3(1), 3A(1) or 3B(1) is liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both);
  - (b) on summary conviction—
    - (i) in England and Wales, to imprisonment for a term not exceeding 3 months or to a fine (or both),
    - (ii) in Scotland, to imprisonment for a term not exceeding 3 months or to a fine not exceeding the statutory maximum (or both).
- (2) A person guilty of an offence under section 3A(3) or (4) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (3) A person guilty of an offence under section 3B(3) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) A person guilty of an offence under section 3C(8) is liable on summary conviction—
  - (a) in England and Wales, to imprisonment for a term not exceeding 3 months or to a fine (or both);
  - (b) in Scotland, to imprisonment for a term not exceeding 3 months or to a fine not exceeding level 5 on the standard scale (or both).
- (5) A person guilty of an offence under section 7(4) is liable on summary conviction—
  - (a) to a fine not exceeding level 4 on the standard scale, and
  - (b) in the case of a continuing offence, to a further fine not exceeding one-tenth of level 4 on the standard scale for every day subsequent to the day on which the person is convicted of the offence during which the contravention or default continues.
- (6) In the case of proceedings against a person for an offence under section 3A, 3B or 3C, or an offence under section 7(4) in connection with the supply of a regulated substance or a reportable substance, where the act in question was done by an employee—

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- (a) it is not a defence that the employee acted without the authority of the employer, and
  - (b) any material fact known to the employee is deemed to have been known to the employer.
- (7) Notwithstanding any provision in any Act, or Act of the Scottish Parliament, prescribing the period within which summary proceedings may be commenced, proceedings for an offence under section 3A(3) or (4), 3B(3), 3C(8) or 7(4) may be commenced at any time—
- (a) within the period of 12 months next after the date of commission of the offence, or
  - (b) in the case of proceedings instituted by, or by the direction of, the Secretary of State, within the later to end of—
    - (i) that 12-month period, and
    - (ii) the period of 3 months next after the date on which evidence sufficient in the Secretary of State’s opinion to justify a prosecution for the offence comes to the Secretary of State’s knowledge.
- (8) For the purposes of subsection (7)(b)(ii), a certificate purporting to be signed by the Secretary of State as to the date on which such evidence came to the Secretary of State’s knowledge is to be conclusive evidence of that fact.
- (9) A document purporting to be a certificate signed by a person specified in subsection (10) stating the result of an analysis made by that person is admissible in any proceedings under this Act as evidence of the matters stated in the certificate, but either party may require the person to be called as a witness.
- (10) The persons are—
- (a) a public analyst appointed under section 27 of the Food Safety Act 1990, or
  - (b) a person appointed by the Secretary of State to make analyses for the purposes of this Act.
- (11) In the application of this section to Scotland, subsections (7) and (8) have effect as if the references to the Secretary of State were references to the Lord Advocate.
- (12) In relation to an offence committed before section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force—
- (a) the reference in subsection (1)(b)(i) to a fine is to be read as a reference to a fine not exceeding the statutory maximum;
  - (b) the reference in subsection (4)(a) to a fine is to be read as a reference to a fine not exceeding level 5 on the standard scale.

### **8A Offences by bodies corporate etc**

- (1) If an offence under this Act is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
- (a) a director, manager, secretary or other similar officer of the body corporate, or

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- (b) any person who was purporting to act in any such capacity, that person, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.
- (2) The reference in subsection (1) to a director, in relation to a body corporate whose affairs are managed by its members, is a reference to a member of the body corporate.
- (3) If an offence under this Act is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
  - (a) a partner, or
  - (b) any person who was purporting to act in that capacity, that person, as well as the partnership, is guilty of the offence and liable to be proceeded against and punished accordingly.”